

MONTANA LEGISLATIVE HISTORY

Chapter 150 1995

Bill H 64 S _____ Original bill & history ✓ C

H. Committee on Judiciary

Hearing Date(s) 2/06 ✓ C

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Date Out _____ C

S. Committee on Judiciary

Hearing Date(s) 3/07 ✓ C

_____ C

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_____ C

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

	RETURNED TO HOUSE WITH AMENDMENTS		
3/07	2ND READING AMENDMENTS CONCURRED	95	4
3/08	3RD READING AMENDMENTS CONCURRED	96	3
3/11	SIGNED BY SPEAKER		
3/15	SIGNED BY PRESIDENT		
3/17	TRANSMITTED TO GOVERNOR		
3/21	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 175		
	EFFECTIVE DATE: 07/01/95		

HB 64 INTRODUCED BY EWER
REVISE QUALIFICATIONS FOR POLICE OFFICERS

12/29	INTRODUCED		
1/02	FIRST READING		
1/02	REFERRED TO JUDICIARY		
2/06	HEARING		
2/08	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/09	2ND READING PASSED	87	6
2/10	3RD READING PASSED	96	4
	TRANSMITTED TO SENATE		
2/20	FIRST READING		
2/20	REFERRED TO JUDICIARY		
3/07	HEARING		
3/08	COMMITTEE REPORT—BILL CONCURRED		
3/10	2ND READING CONCURRED	43	0
3/11	3RD READING CONCURRED	39	0
	RETURNED TO HOUSE		
3/13	SIGNED BY SPEAKER		
3/14	SIGNED BY PRESIDENT		
3/14	TRANSMITTED TO GOVERNOR		
3/17	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 150		
	EFFECTIVE DATE: 03/16/95		

HB 65 INTRODUCED BY MCKEE
GENERALLY REVISE LAWS GOVERNING COMMITMENT TO RESIDENTIAL
FACILITIES FOR PERSONS WHO ARE SERIOUSLY DEVELOPMENTALLY
DISABLED
BY REQUEST OF THE DEPARTMENT OF CORRECTIONS AND HUMAN
SERVICES

12/29	INTRODUCED		
12/30	FISCAL NOTE REQUESTED		
1/02	FIRST READING		
1/02	REFERRED TO JUDICIARY		
1/06	FISCAL NOTE RECEIVED		
1/09	FISCAL NOTE PRINTED		
1/11	REVISED FISCAL NOTE RECEIVED		
1/12	REVISED FISCAL NOTE PRINTED		
1/27	HEARING		
2/08	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/08	REFERRED TO APPROPRIATIONS		
2/14	COMMITTEE REPORT—BILL PASSED		
2/16	2ND READING PASSED	97	3
2/17	3RD READING PASSED	94	4
	TRANSMITTED TO SENATE		
2/21	FIRST READING		
2/21	REFERRED TO JUDICIARY		
3/15	HEARING		

HOUSE BILL NO. 64
INTRODUCED BY EWER

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT AGE IS A BONA FIDE QUALIFICATION FOR THE POSITION OF POLICE OFFICER; AMENDING SECTION 7-32-4112, MCA; AND PROVIDING IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-32-4112, MCA, is amended to read:

"7-32-4112. Qualifications of ~~police~~ police officers. The state of Montana determines is a bona fide occupational qualification for the position of police officer because of the rigorous demands of the profession and the expectation of many years of emergency service. ~~(1) The member of the~~ a police department on the active list of any city at the time of ~~their~~ appointment under this part;

(1) may not be less than 18 years of age or more than 35 years of age, but this restriction not apply to any except:

(a) for a member of any police department as of July 2, 1973, ~~to;~~

(b) an honorably discharged ~~persons~~ person who served 3 months or more in the armed forces of the United States in time of war, ~~providing such time of service is not less than 3 months;~~ or

(c) to applicants an applicant for reinstatement under 7-32-4110;

(2) A ~~police officer~~ must be a citizen of the United States; and

(3) shall meet the minimum qualifying standards for employment promulgated by the board of police control."

NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

-END-

(Tape: 1; Side: A)

HEARING ON HB 64

Opening Statement by Sponsor:

REP. DAVID EWER, HD 53, was asked to carry HB 64 by the League of Cities. They are currently experiencing a conflict between state statute and federal statute with regard to what constitutes legal criteria for hiring police officers in Montana. He presented an amendment which he said nearly reverses the original intent of the bill, but the basic intent of the bill remains the same. That intention is to be in compliance with federal law to eliminate the limitation in hiring candidates over 35 years of age. EXHIBIT 1

Proponents' Testimony:

Alec Hanson, Montana League of Cities and Towns, Montana Municipal Insurance Authority, said that they are dealing with several law suits because of the difference between state and federal laws. The intent of the bill is to remove that conflict.

Jim Oberhofer, Retired Chief of Police, Missoula, testified as to his experience of being sued and the difficulties in abiding by the state law which made him guilty of the federal law. He said that the physical qualifications and tests will remain unchanged by this bill.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

REP. BILL TASH asked if Mr. Hanson was in favor of the amendments.

Mr. Hanson said they were acceptable.

REP. DUANE GRIMES asked if there was any need to have the following subparagraphs when the amendment strikes the words, "or more than 35 years of age".

REP. EWER said he agreed. He had been told they needed to amend the bill further.

Closing by Sponsor:

REP. EWER closed.

Amendments to House Bill No. 64
First Reading Copy

Requested by Representative Ewer
For the House Judiciary Committee

Prepared by Eddye McClure
January 5, 1995

1. Title, lines 4 and 5.
Following: second "ACT"
Strike: the remainder of line 4 through "POSITION" on line 5
Insert: "REVISING THE QUALIFICATIONS"
Following: "POLICE"
Strike: "OFFICER"
Insert: "OFFICERS TO COMPLY WITH FEDERAL LAW"
2. Page 1, lines 11 through 13.
Following: "officers." on line 11
Strike: the remainder of line 11 through "service." on line 13
3. Page 1, line 16.
Following: first "age"
Strike: "or more than 35 years of age"

HEARING ON HB 64Opening Statement by Sponsor:

SENATOR AL BISHOP, representing the heart of Billings, opened HB 64 for REPRESENTATIVE DAVID EWER, House District 53, Helena, who was testifying on another hearing. He said the bill would amend the qualifications for police officers. They may not be less than 18 years of age, a citizen of the United States and shall meet the minimum qualifying standards for employment promulgated by the Board of Crime Control.

Proponents' Testimony:

Alec Hansen, representing the League of Cities and Town, said their organization had asked REPRESENTATIVE EWER to present the bill for a simple reason. The age requirement in the existing statute is causing trouble. If they follow the statute, the cities and towns are open to a lawsuit. They have several lawsuits now resulting from age discrimination. He said it was completely illogical to sue a city or town because they are following statute. The law should be changed instead. The age requirement needs to be removed, he said. He said a parallel federal statute was allowed to expire, causing problems with this state law.

Jim Oberhofer, representing himself and the Montana Peace Officers Standards of Training. He said he was one of the individuals involved in a current lawsuit. As a past chief of police, he had adhered to a state law at a 35-year age limit. He had a person who called and asked what to do with the application when he turned 36. They did not accept it and he was found guilty of violation of the state human rights law for an age discrimination. Two other cities are under that same suit. However, if he had decided the other way, he would have been guilty of violating state law of hiring at a 35-year age limit. Either way, he was in trouble. He asked for the change in the law. The sheriffs and peace officers have not had to abide by this limit, he said.

W. James Kembel, representing the City of Billings, said they would like to be recorded as being in support of the bill.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

SENATOR LINDA NELSON asked Mr. Kiser what the minimum qualifying standards were. Mr. Kiser stated an applicant would have to be

18 years of age, a citizen of the United States, a high school or equivalent education requirement, and not be convicted of a felony. **SENATOR LORENTS GROSFIELD** asked why someone like **Jim Oberhofer** would be taken to task rather than just going after the Constitutionality of the statute. **Ann McIntyre, Administrator, State Human Rights Commission**, answered the question. She said that someone who felt that the city or town was in violation of the discrimination laws filed a complaint with the commission and sought adjudication. That is the form the legislature had established, she said. She said it was a choice of form with the filing individual. The law favors a statutory remedy over a Constitutional one. **SENATOR RIC HOLDEN** said he felt the 35 age limit had to do with fitness. What would they do to ensure that the public gets physically fit police officers? **Mr. Oberhofer** said it would fall upon the jurisdiction that is hiring. There are standards set by the academy called the "Cooper's Test," currently being enforced. He said he hoped they did not get sued over the physical requirements.

Closing by Sponsor:

The hearing was closed for the sponsor, who was absent.

EXECUTIVE ACTION ON HB 64

Motion/Vote: **SENATOR GROSFIELD** MOVED THAT **HB 64** BE CONCURRED IN. The MOTION CARRIED UNANIMOUSLY by an oral vote. **SENATOR GROSFIELD** agreed to carry the bill.

EXECUTIVE ACTION ON HB 457

Discussion: **SENATOR HALLIGAN** explained that the minors-in-possession statute which deals with alcohol, is codified in the criminal law section, Title 45, Chapter 5. He, **Valencia Lane** and **Greg Petesch** felt it should be codified in that section and not in the tobacco section, although it should refer to that section for definitions. Another question he had was about community service, which must be performed in 6 months or the court loses jurisdiction. There was no limitation over what length of time, which he said was fine until someone challenged it. **Valencia Lane** explained the amendments, as shown in (EXHIBIT 11).

Motion/Vote: **SENATOR HALLIGAN** MOVED THAT THE AMENDMENT BE ADOPTED. The MOTION CARRIED UNANIMOUSLY on an oral vote.

Discussion: **SENATOR HOLDEN** asked if they moved it into the juvenile codes? **SENATOR HALLIGAN** said they put it into the regular criminal code where all the rest of the crimes are. Without it, it would put it under Title 16 which would not make any sense.

HOUSE BILL NO. 64

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(a) for a member of any police department as of July 2, 1973, to;

(b) an honorably discharged persons person who served 3 months or more in the armed forces of the United States in time of war, providing such time of service is not less than 3 months; or

(c) to applicants an applicant for reinstatement under 7-32-4110;

(2) A police officer must be a citizen of the United States; and

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